

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JEROME LOACH	:	CIVIL ACTION
	:	
v.	:	
	:	
JAMES PRICE, et al.	:	NO. 99-285

MEMORANDUM AND ORDER

Fullam, Sr. J. April , 2000

Petitioner Jerome Loach is now serving a sentence of nine to twenty years imposed as a result of his conviction in Montgomery County for third degree murder and related offenses; the effective date of that sentence is June 3, 1988. His minimum sentence expired on June 3, 1997, and his maximum will expire on June 3, 2018. He has recently sought habeas corpus relief from that sentence. Jerome Loach v. Martin L. Dragovich, et al., C.A. 96-8701.

In the present case, petitioner challenges a sentence imposed in Philadelphia County, for a robbery conviction. The United States Magistrate Judge to whom this case was referred has recommended that the petition be dismissed, both because petitioner is not "in custody" pursuant to the Philadelphia sentence, and also because his petition lacks merit. I agree. There is no showing that the Montgomery County sentence was enhanced as a result of the Philadelphia conviction challenged in

this case, or even that the effective date of the Montgomery County sentence was delayed by reason of the Philadelphia sentence. Indeed, it appears that the petitioner was paroled from the Philadelphia sentence, and was not prosecuted as a parole violator as a result of the Montgomery County crime. Petitioner's maximum sentence on the Philadelphia crime expired in 1996. It is therefore clear that the petitioner is not "in custody" pursuant to the Philadelphia sentence, and has suffered no collateral consequences which might enable him to seek relief in this court.

It is also clear that, for the reasons set forth in the report of United States Magistrate Judge Wells, the Philadelphia conviction was constitutionally obtained. The petition will therefore be denied.

An Order follows.

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ORDER

AND NOW, this            day of April, 2000, IT IS ORDERED:

1. The report and recommendation of United States Magistrate Judge Wells is APPROVED AND ADOPTED.
2. Petitioner's Motion for Summary Judgment is DENIED.
3. The petition for writ of habeas corpus is DENIED.
4. There is no basis for issuing a certificate of appealability.

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John P. Fullam, Sr. J.